

# Public Consultation on the Functioning of Waste Markets

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## Public Consultation on the functioning of Waste Markets in the European Union

### Part 1 - Identification of stakeholder or expert

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Please enter your country of residence/establishment

- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
- LUXEMBOURG
- MAGYARORSZÁG
- MALTA
- NEDERLAND
- OTHER COUNTRY (non-EU)
- POLSKA
- PORTUGAL
- ROMÂNIA
- SLOVENIJA
- SLOVENSKO
- SUOMI / FINLAND
- SVERIGE
- UNITED KINGDOM
- ÖSTERREICH
- ČESKÁ REPUBLIKA
- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΎΠΡΟΣ)

БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country of your residence/establishment:

Your name or organisation:

Please provide your EU Transparency Register ID number (if you have one)

If your organisation is not registered, you can register now (please see the introduction to this consultation under 'How to submit your contribution').

Can your reply be published? Please tick the box of your choice.

- With your name or that of your organisation  
 Anonymously

For information on how your personal data and contribution will be dealt with, please refer to the privacy statement in the introduction to this consultation.

I am replying to this consultation as...

- an individual  
 a private enterprise  
 a non-governmental organisation (NGO)  
 an organisation or association (other than NGO)  
 a government or public authority  
 a European institution or agency  
 an academic/research institute  
 other

If you are replying on behalf of a company, please specify in which of the following markets you predominantly operate:

- The whole EU market  
 In one or several Member States, please indicate which one in the list below:  
 BELGIQUE-BELGIË  
 DANMARK  
 DEUTSCHLAND  
 EESTI

- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
- LUXEMBOURG
- MAGYARORSZÁG
- MALTA
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- POLSKA
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- ROMÂNIA
- SLOVENIJA
- SLOVENSKO
- SUOMI / FINLAND
- SVERIGE
- UNITED KINGDOM
- ÖSTERREICH
- ČESKÁ REPUBLIKA
- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΎΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country in which you predominantly operate:

If you are replying on behalf of a company, please indicate the number of its employees:

- Between 1 and 49
- Between 50 and 249
- 250 and more

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## Part 2 - Questions

### A. Identification of the main perceived regulatory failures

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For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

The EU waste market must move the treatment of waste up in the so called waste hierarchy (als known as the material hierarchy). Incentives and economic instruments should be grounded in the fact that waste is a resource.

Rather than merely aiming at minimizing waste, the ambition should be to maximize circular loops of material whilst detoxify.

It must be more profitable to recycle and re-use resources than to incinerate waste or to extract virgin resources.

(i) Policy and legislation should stimulate the industry's possibility to innovate and develop solutions that help businesses and society to close the loop. One important aspect to achieve this is open markets with equal competition between commercial and public actors (municipalities). Today the market is closed for household waste and similar waste.

(ii) Tax barriers for extraction of secondary raw materials (landfills).

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

(i) Commercial actors should have the responsibility for their own waste (also known as bi products). Ragn-Sells customers seek holistic solutions and services to protect the value in their materials and to be more resource-efficient. With a municipality monopoly for household waste and similar waste (from companies) this is not today possible. Public sector/municipal mandates do not promote a circular economy, but risk to drive the materials to pre-destined use (incineration).

(ii) Circular materials, i.e. the extraction of secondary raw materials from landfills and from existing waste streams, must at least have the same conditions as the linear raw material industry. Today national taxation [in Sweden] favors the extractions of virgin raw materials. Waste materials from primary resource extraction that are landfilled are exempted from landfill tax, while waste from extraction in existing landfills or waste streams is not. An EU-level playing field that reward recycling and extraction of secondary raw materials should be envisaged.

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU? (multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

By including Ecocide law (remember this is missing law that was originally part of the Rome Statute) as an international crime, it would prohibit dangerous industrial activity that causes significant harm, but it also places a mandatory duty on governments, business and finance to ensure all industry is non-harmful on a major scale. This would create a shift from business as usual to the circular economy and away from wasteful resource management.

In other words, by law governments, business and banks shall prioritise e.g. clean energy generation and production, closing and detoxifying the loop, creating many more jobs in the process. Furthermore it would create a level playing field for investors, thereby stimulating economies.

Ecocide law would address the root of the problem.

8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

The EU Framework should not introduce the term or a definition for "municipal waste", since it creates a barrier to an open and competitive market and risk lock-in of certain material flows away from the circular economy.

Ragn-Sells would like to urge the European Commission to introduce definitions for "Household waste" and "Commercial/industrial waste" and to set separate recycling targets for these two waste fractions in order to stimulate all actors to develop and innovate ways to prevent waste and find resource-efficient solutions.

## B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

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9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

*at most 5*

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

*at most 5*

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

*at most 5*

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

*at most 5*

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

*at most 5*

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

*at most 5*

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

*at most 5*

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

*at most 5*

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

*at most 5*

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

*at most 5*

k. Other obstacles not listed above.

*at most 5*

If relevant, please provide additional information in relation to your above reply.

11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

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**C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation**

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12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

*at most 5*

5

b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

*at most 5*

5

c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

*at most 5*

5

d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

*at most 5*

5

e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

*at most 5*

2

f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

at most 5

5

g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

at most 5

0

h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

at most 5

2

i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

at most 5

5

j. Other obstacles not listed above.

at most 5

0

If relevant, please provide additional information in relation to your above reply.

14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

13 b and c and i

15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

*at most 3*

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

b. Less recycling

*at most 3*

c. Less recovery, including energy recovery

*at most 3*

d. Less environmentally sound management of waste

*at most 3*

e. Less resource efficiency

*at most 3*

f. Lack of market access

*at most 3*

g. Other

*at most 3*

If relevant, please provide additional information in relation to your above reply.

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## D. Final questions

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17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

Please see enclosed Position Paper on the CEP for Ragn-Sells views on necessary steps to create a functioning Circular Economy. Sent separately by e-mail to: ENV-CONSULTATIONS-FUNCTIONING-OF-WASTE-MARKETS@ec.europa.eu

With a view to the more specific questions in this consultation, Ragn-Sells stand behind the answers given by the Swedish Recycling Industries' Association (Återvinningsindustrierna)

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## Part 3 – Follow-up activities

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20. Would you be interested in participating in a stakeholder meeting on these issues that will be held on 12th November 2015?

- Yes, I would like to attend.
- No, I'm not interested.

My contact details are (optional):

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## Contact

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